

Notice of Allowability

Application No.

09/821,230

Examiner

Jenna-Leigh Befumo

Applicant(s)

TANGE ET AL.

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Appeal Brief filed on March 31, 2005.
2. ☒ The allowed claim(s) is/are 1 and 2.
3. ☒ The drawings filed on 29 March 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 4/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance:

2. The 35 USC 103 rejection based on Morman (5,116,662) is withdrawn since Morman discloses bonding a stretched elastic sheet to a necked spunbond nonwoven fabric, which would comprise continuous fibers oriented in one direction. Even though the composite fabric comprises an elastic layer and an oriented, continuous layer bonded together in a relaxed state the necked layer would not be inelastically stretchable. When the composite is relaxed the elastic layer contracts and the necked layer gathers together to form a bulk fabric layer. When the composite is stretched the necked, nonwoven layer would not be inelastically stretchable because instead of stretching it would just be extended to its full length. And when the necked layer reached its full length it would begin to rupture instead of stretching further.

3. An updated search of the prior art revealed Ellis et al. (US 2003/0124310 A1) which discloses using inelastic staple fiber layers with elastic layers to form composite fabric. However, this application was filed after the present application and one of ordinary skill in the art could not make an oriented continuous filament fabric using the method taught by Ellis et al. to make the oriented staple fabric. Further, the prior art, such as EP 0 803 602 A1 and EP 0 688 655 A2, disclose using composite fabric which has elastic film layer which are bonded to spunbond layer which are only oriented after the composite has been stretched and not been before. Additionally, US 6,613,260 and US 2002/0053755 A1, with common inventors, disclosed composite fabrics having elastically stretchable layer bonded to inelastically stretchable layers, but both layers are disclosed as randomly oriented spunbond layers. It would not have been obvious to one of ordinary skill in the art to make spunbond fabrics with continuous fibers oriented in one direction since spunbond fabrics are made with randomly oriented fibers and having the fibers randomly oriented is

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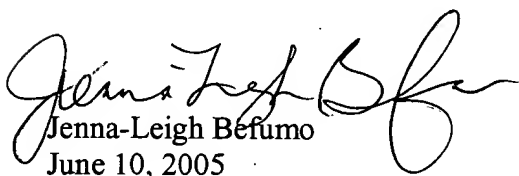
what gives the fabrics strength in the cross-machine direction. Therefore, claims 1 and 2 are allowable since the claims require an elastically stretchable fibrous layer to be bonded to an inelastically stretchable fibrous layer made from continuous fibers which are oriented in substantially one direction.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jenna-Leigh Befumo
June 10, 2005


CHERYL A. JUSKA
PRIMARY EXAMINER